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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Leon Mikinka,)
10 Plaintiff,) No. CIV 04-2236-PHX-EHC (DKD)
11 vs.)
12 Maricopa County Sheriff's Office, et al.,) **ORDER**
13 Defendants.)
14 _____)

15 The Defendants have filed a Motion to Dismiss (Doc. #14). Plaintiff is advised of the
16 following specific provisions of LRCiv 7.2 of the Rules of Practice of the United States
17 District Court for the District of Arizona:

18 Subparagraph (e) provides:

19 Unless otherwise permitted by the Court, a motion including its supporting
20 memorandum, and the response including its supporting memorandum, each
21 shall not exceed fifteen (15) pages, exclusive of attachments and any required
22 statement of facts. Unless otherwise permitted by the Court, a reply including
23 its supporting memorandum shall not exceed ten (10) pages, exclusive of
24 attachments.

25 Subparagraph (i) provides:

26 If a motion does not conform in all substantial respects with the requirements
27 of this Rule, or if the opposing party does not serve and file the required
28 answering memoranda, or if counsel for any party fails to appear at the time
and place assigned for oral argument, such non-compliance may be deemed a
consent to the denial or granting of the motion and the court may dispose of
the motion summarily.

29 If Defendants' Motion to Dismiss seeks dismissal of your Complaint for your failure
30 to exhaust all available administrative remedies as required by 42 U.S.C. § 1997e(a), the

1 Court may consider affidavits or other documentary evidence beyond your Complaint.
2 Moreover, if Defendants produce admissible evidence demonstrating that you failed to
3 exhaust your administrative remedies, your Complaint will be dismissed without prejudice
4 unless you produce your own affidavit or other admissible evidence sufficient to show that
5 you did exhaust all available administrative remedies.

6 **It is Plaintiff's obligation to timely respond to all motions. The failure of Plaintiff**
7 **to respond to Defendants' Motion to Dismiss may in the discretion of the Court be**
8 **deemed a consent to the granting of that Motion without further notice, and judgment**
9 **may be entered dismissing the complaint and action with prejudice pursuant to LRCiv**
10 **7.2(i). See *Brydges v. Lewis*, 18 F.3d 651 (9th Cir. 1994) (per curiam).**

11 **IT IS THEREFORE ORDERED** that Plaintiff shall have thirty (30) days from the
12 date this Order is filed to file a response to Defendants' Motion to Dismiss.

13 **IT IS FURTHER ORDERED** that Defendants shall file any reply within fifteen (15)
14 days from the date Plaintiff's response is filed.

15 **IT IS FURTHER ORDERED** that the Motion shall be deemed ready for decision
16 without oral argument on the day following the date set for filing a reply unless otherwise
17 ordered by the Court.

18 DATED this 30th day of November, 2005.



21 _____
22 David K. Duncan
23 United States Magistrate Judge
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